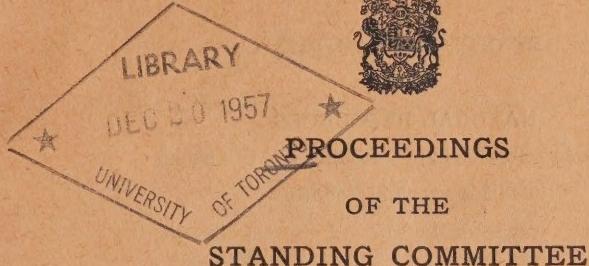


Gov. Soc. Canada. Natural Resources Standing  
Can " Committee on (Senate), 1957/58

Comm  
N. CAI YC16  
- N16 1957 Second Session

THE SENATE OF CANADA



**NATURAL RESOURCES**

To whom was referred the Bill (L), intituled: "An Act to amend the Territorial Lands Act".

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No. 2

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The Honourable Cyrille Vaillancourt, Chairman

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WEDNESDAY, DECEMBER 11, 1957

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WITNESSES

The Honourable J. W. C. Spooner, M.P.P., Minister of Mines,  
Province of Ontario.

Mr. R. G. Robertson, Deputy Minister, Department of Northern  
Affairs and National Resources.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1957

STANDING COMMITTEE  
ON  
NATURAL RESOURCES

The Honourable Cyrille Vaillancourt, Chairman

The Honourable Senators

Aseltine	Farquhar	Paterson
Barbour	Fraser	Pearson
Basha	*Haig	Petten
Beaubien	Hawkins	Power
Bois	Hayden	Raymond
Bouffard	Horner	Stambaugh
Burchill	Kinley	Taylor ( <i>Norfolk</i> )
Cameron	*Macdonald	Taylor ( <i>Westmorland</i> )
Comeau	MacKinnon	Turgeon
Crerar	McDonald	Vaillancourt
Davies	McKeen	Vien
Dessureault	McLean	Wood (38)
Dupuis	Methot	
Emerson	Nicol	

40 Members

(Quorum 9)

\*Ex Officio member

## ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate

THURSDAY, October 31, 1957.

"Pursuant to the Order of the Day, the Honourable Senator Haig, P.C., moved, seconded by the Honourable Senator Aseltine, that the Bill (L), intituled: "An Act to amend the Territorial Lands Act", be now read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Haig, P.C., moved, seconded by the Honourable Senator Aseltine, that the Bill be referred to the Standing Committee on Natural Resources.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,  
*Clerk of the Senate.*



## MINUTES OF PROCEEDINGS

WEDNESDAY, December 11, 1957.

Pursuant to adjournment and notice the Standing Committee on Natural Resources met this day at 10.30 a.m.

Present: The Honourable Senators: Vaillancourt, *Chairman*; Bouffard, Crerar, Farquhar, Haig, Hawkins, Kinley, Macdonald, McDonald, McKeen, Methot, Pearson, Taylor (*Norfolk*) and Turgeon.—14.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel; Mr. R. G. Robertson, Deputy Minister, Mr. F. J. G. Cunningham, Assistant Deputy Minister and Mr. G. Carthy, Executive Assistant, Department of Northern Affairs and National Resources; The Honourable J. W. C. Spooner, Minister, Mr. Forbes McFarland, Mining Commissioner and Mr. F. W. Beatty, Surveyor General, Department of Mines, Province of Ontario.

Consideration of Bill L, "An Act to amend the Territorial Lands Act", was resumed.

The Honourable Senator Haig stated to the Committee that inasmuch as he had not had sufficient time to study the Bill fully he would suggest that following today's meeting the matter be adjourned in order that he may better acquaint himself with the subject matter of the Bill.

After discussing on the suggestion of Senator Haig, the Chairman, requested the Clerk of the Committee to read the letter and notice sent by the Chairman to the Ministers of Mines of each province and the replies thereto.

The Honourable Mr. Spooner, Minister of Mines, Province of Ontario then spoke briefly to the Committee. He stated that he would prefer to hear the law officers of the Federal Government in order that the provincial officials of his department would be in a better position to make their representations on this legislation.

The Honourable Senator Vien, seconded by the Honourable Senator Turgeon, moved that the law officers of the Crown be called to give evidence before this Committee. No action was taken on this motion.

The Honourable Senator Haig moved that the Committee invite the Minister of the Department of Northern Affairs and National Resources, the Deputy Minister of Justice and such of his officers as are responsible for the drafting of the Bill to be present at the next sitting of the Committee on Wednesday, December 18th, 1957. Motion carried.

At 11.30 am. the Committee adjourned until 10.00 a.m., Wednesday, December 18, 1957.

Attest.

A. Fortier,  
*Clerk of the Committee.*



**THE SENATE**  
**STANDING COMMITTEE ON NATURAL RESOURCES**  
**EVIDENCE**

OTTAWA, WEDNESDAY, December 11, 1957.

The Standing Committee on Natural Resources met this day at 10.30 a.m.  
Senator Vaillancourt in the Chair.

Senator HAIG: Mr. Chairman, before hearing any witnesses, may I make a statement?

I understand that you have notified the provinces with respect to Bill L, now before you, and I understand the Minister of Mines for Ontario is here today. I have been very busy and have been unable to give this bill full consideration.

I would like to suggest that after you have heard the honourable the minister from Ontario, that you adjourn your hearing on this bill, and give me time to acquaint myself with the whole situation. I do not like the bill very much, because I think it affects a good many provinces. Certainly it affects Manitoba, British Columbia, Nova Scotia, Ontario, Quebec and any other provinces which have coastal waters. For that reason I want to go into the matter fully.

I am going back to Winnipeg during the Christmas recess, and will be discussing this matter with the Premier of the province of Manitoba, and perhaps with some others in the meantime. I am not at this time trying to curtail anything that the Minister from Ontario would like to say—he is at liberty to make a full statement. But in fairness to the committee and to myself. I would ask that this matter be adjourned following today's meeting, in order that I may look into the matter fully.

Senator CRERAR: Would you propose to have the matter come before the committee again before the Christmas recess?

Senator HAIG: Not before the recess, after the recess.

Senator McDONALD: Mr. Chairman, I was not able to attend the last meeting of this committee because of my attendance at the simultaneous meeting of the Land Use Committee. I would like to know if the appropriate officials of the provincial Governments were taken into consultation before this bill was drafted or at the time it was being drafted?

Senator VIEN: Mr. Chairman, I am very happy to have heard the Honourable Leader of the Government state that this committee would adjourn its sitting without taking any definite action on this bill. At the last sitting of our committee it was understood that the law officers, to whom reference was made in the testimony of Mr. Robertson, would be heard. I think that it will advance the work of the committee very materially if we can hear the law officers who have given the opinion on which the officers of the department based their action in presenting this bill. Therefore it seems that the law officers should be heard. We should also hear the Honourable Minister of Mines for the province of Ontario who is here at our invitation. Our committee will be interested in listening to what the Honourable Minister has to say.

Senator MACDONALD: Mr. Chairman, could you tell us if there have been any replies received from the provincial Goversments?

Senator McDONALD: Mr. Chairman, could we take these questions in order? In all deference to Senator Vien, I asked the question, had the appropriate officials of the provincial Governments been consulted regarding this bill before it was introduced here.

The CHAIRMAN: Letters were sent to the ministers of all the provinces. I will have the clerk read them.

Senator McDONALD: But, Mr. Chairman, I would like to know if the appropriate officials were consulted before the bill was introduced.

Mr. HOPKINS: According to the testimony of Mr. Robertson at the last meeting of the committee, the answer to Senator McDonald's question is no, Mr. Chairman, because it was not considered at that point it was necessary.

Senator McDONALD: Why would it not be necessary, when, for instance, coal is mined under the water off Nova Scotia for a distance of up to 10 or 12 miles.

The CHAIRMAN: Our Clerk will read the letter that we sent to every province.

The CLERK OF THE COMMITTEE: The letter reads:

Re: Bill L. An Act to amend the Territorial Lands Act.

The above mentioned Bill is now before the Senate Committee on Natural Resources for consideration.

At a meeting of the Committee on Thursday last, the 21st instant, the question of the rights of the Provinces in respect to the legislation proposed by the Bill was raised. After discussion, a Resolution was passed directing that a copy of the Bill, together with copy of the printed proceedings of the Committee, be forwarded to the appropriate department of the Provincial Governments with a request that they be asked for their views on the provisions of the Bill.

Would you please, therefore, let me know if you have any representations to make with respect to the Bill.

Yours faithfully,  
CYRILLE VAILLANCOURT,  
*Chairman.*

And on December 4th we sent the following notice to each of the provinces:

OTTAWA, December 4th, 1957.

Dear Sir:—

Re: Bill L, An Act to amend the Territorial Lands Act.

Referring to my letter of the 27th ultimo, I wish to advise you that a further meeting for consideration of the above Bill will be held on Wednesday, December 11th, 1957, at 10.30 a.m. in Senate Committee Room No. 368.

Yours faithfully,  
The Honourable CYRILLE VAILLANCOURT,  
*Chairman.*

Following are the replies we received:

St. John's Newfoundland December 11, 1957.  
(via C.N. Telegraph)

Cyrille Vaillancourt, Chairman, Standing Committee on Natural Resources The Senate, Ottawa.

Re amendment Territorial Lands Act. It is opinion of our law officers that the interests of the province are not adversely affected

thereby since the amendment does not purport to change the status of either provincial or federal lands.

W. J. Keough,  
Minister Mines and Resources.

Department of Mines and Minerals  
Alberta  
Office of the Minister

December 4, 1957.

*Re: Bill L, An Act to amend the Territorial Lands Act.*

Dear Sir:

I wish to acknowledge with thanks your letter of November 27, 1957, and to inform you that the Province of Alberta has no representations to make to your committee with respect to Bill L.

Yours very truly,

(Sgd.) E. C. Manning,  
Minister.

The Honourable Cyrille Vaillancourt,  
Chairman,  
Standing Committee on Natural Resources,  
The Senate of Canada,  
Ottawa, Ontario.

Minister of Mines  
Province of  
British Columbia  
Victoria

December 6th, 1957.

The Honourable Cyrille Vaillancourt,  
Chairman,  
Standing Committee on Natural Resources,  
The Senate,  
Ottawa, Canada.

Dear Sir:

*Re: Bill L, An Act to amend the Territorial Lands Act.*

Thank you for bringing to my attention Bill L and for sending me a copy of the Proceedings of your Standing Committee on Natural Resources.

In our opinion paragraph (g) of Section 2 of the "Territorial Lands Act" is ambiguous and it is also our opinion that the amendment does not remove the ambiguity.

Your Committee has brought out very clearly the fact that neither the Act as it stands nor the amendment defines the words in paragraph (g) "or of which the Government of Canada has power to dispose" or in (g) (ii) of the amendment.

It seems to us that to clarify paragraph (g) of section 2 of the "Territorial Lands Act" all the words after Crown should be struck out and something like the following inserted "and such lands shall include land under water".

As mentioned by members of your Committee there has been iron mining in Newfoundland and coal mining in Nova Scotia under the sea. There has been coal mining in British Columbia at Nanaimo under harbour waters. I have not had time to make inquiries as to how titles to such iron and coal were obtained but we have in recent years issued

licences to mine coal off the coast of Vancouver Island; and we have issued in recent years over twenty permits to explore for petroleum and natural gas that include rights to our minerals under coastal waters.

We have proceeded on the assumption that the only practical way to recover minerals beyond the shore of a province is to follow the extension of the mineral seawards. The Federal Government should presumably have the authority to authorize such similar legislation in coastal areas of territories directly under federal jurisdiction as to mineral rights without there being any suggestion of interference with the rights of the provinces in their coastal area.

Thank you too, for your letter of December 4th and further advice contained therein.

Yours very truly,  
W. K. KIERNAN,  
Minister.

And from the Prime Minister of the Province of Quebec.

CABINET DU PREMIER MINISTRE  
PROVINCE DE QUÉBEC

QUÉBEC, le 6 décembre 1957.

L'honorable Sénateur Cyrille Vaillancourt,  
59, avenue Bégin,  
Lévis, P.Q.

Monsieur le sénateur,

Faisant suite à notre conversation par téléphone de Québec cet avant-midi concernant le bill L et qui est actuellement soumis au Sénat canadien:

Mon collègue, l'honorable W.M. Cottingham, ministre des Mines, m'a communiqué les lettres que vous lui avez adressées, à ce sujet, en date du 27 novembre dernier et du 4 décembre courant. M. Cottingham me demande de vous remercier d'avoir eu l'obligeance de lui transmettre copie du projet législatif en question ainsi qu'un exemplaire des "Proceedings of the Standing Committee on Natural Resources, November 21, 1957".

Il y a déjà quelque temps, mon confrère et concitoyen, l'honorable sénateur Léon Méthot, a porté à mon attention le projet législatif en question. J'ai transmis au sénateur Méthot les objections formelles et l'opposition définitive de la Province de Québec à l'adoption de ce projet législatif.

Je comprends que M. Méthot s'oppose, et avec beaucoup de raison, à l'adoption de ce bill et je formule l'espoir que vous ferez écho aux légitimes protestations de la province à ce sujet.

Veuillez agréer mes sincères salutations.

M. L. Duplessis.

The following is a translation of Hon. Mr. Duplessis' letter:

Prime Minister's Office  
Province of Quebec

Quebec, December 6, 1957.

Honourable Senator Cyrille Vaillancourt,  
59 Begin Ave.,  
Levis, Quebec.

Dear Senator,

Following our telephone conversation this afternoon with respect to Bill L which is at present under study by the Senate.

My colleague, the Honourable W. M. Cottingham, Minister for Mines, has communicated to me the letters which you addressed to him in regard to the above matter, dated November 27 and December 4th. Mr. Cottingham has asked me to thank you for your kind attention in providing him with a copy of the Bill as well as a copy of the "Proceedings of the Standing Committee on Natural Resources of November 21, 1957.

Some time ago my colleague and fellow-citizen, the Honourable Senator Léon Méthot, drew my attention to the proposed legislation. I have already forwarded to Senator Méthot the formal objections and definite opposition of the Province of Quebec to the passage of this Bill.

I understand that Senator Méthot will oppose, and for many reasons, the adoption of this Bill and I express the hope that you also will reflect the legitimate protest of the Province in this matter.

Please accept my most sincere best wishes,

M. L. DUPLESSIS.

Senator McDONALD: Which all goes to show that whenever a bill like this is being considered here it would be wise to first consult with the provinces.

Hon. T. W. C. SPOONER, Minister of Mines, Province of Ontario: Honourable sirs, I have not taken the liberty of writing you, because we feel that this bill is of great importance. So I am present this morning, and I have with me as advisers Mr. Forbes McFarland, who is the Mining Commissioner for the Province of Ontario, and I have also Mr. F. W. Beatty, who is the Surveyor-General for the province.

Our objections to the bill in its present form are that it would appear to encroach upon provincial rights. The language of the Bill is rather ambiguous, and we think that, if a bill of this nature is necessary, it should be written out in much clearer language. We feel that the passing of this bill might develop some, shall we say, difficult situations in dealings in Ontario with respect to mineral lands and other problems; and in going into a bit of history I find that there have been rather unsatisfactory arrangements and agreements between Ontario and Canada with respect to minerals under Indian lands, shall we say, minerals that are located under lands that were Indian lands, and things of that kind. For these very broad reasons, gentlemen, we feel, as many of you have already expressed the opinion this morning, that the bill could have many unsatisfactory implications, and therefore we think the subject is a very serious one, and should be gone into much more thoroughly and we should have a greater opportunity to discuss its subject matters with you or a committee of Government, and certainly that the other provinces should have more time to consider the implications of such a piece of legislation. Now, Mr. Chairman, if you would like to hear from my advisers I would be glad to have them come on the stand and give some reasoning that in their opinion might be of some assistance to your committee in dealing with this matter.

Senator MACDONALD: Before the minister leaves I want to say that as I came into the room Senator Vien was suggesting that our law officers make a statement before we hear from the provincial representatives. Is that correct, Senator Vien?

Senator Vien: Yes, but I was glad the minister had an opportunity of stating his views; they are in line with those of other provinces. If the honourable minister desires that his advisers be heard now, it might complete his presentation.

Hon. Mr. SPOONER: Yes.

Senator MACDONALD: I did not know, Mr. Minister, whether you would prefer that representatives from your province give evidence now or whether you would prefer to hear the law officers of the Dominion.

Hon. Mr. SPOONER: I would prefer to hear the law officers first.

Mr. ROBERTSON: I am not one of the law officers. The law officers from whom the advice or opinion was received were the former and present Deputy Minister of Justice, Mr. Varcoe and Mr. Jackett.

Senator VIEN: Mr. Robertson mentioned at the last sitting of the committee that he was speaking as advised by the law officers of the Crown, and it was understood that they would be present today. Mr. Robertson, did you not decline to express any opinion on the law and were we not expecting that your law officers would be here today to advise the committee?

Mr. ROBERTSON: Mr. Chairman, I do not know whose responsibility it is to summon the witnesses who are supposed to appear. I assume this would be handled by the committee. I simply turned up on my own today to give any further evidence that might be sought of me.

Senator VIEN: Therefore there are no law officers present?

Mr. ROBERTSON: I have not brought any law officers, sir.

Senator VIEN: Are there any here whose opinion is on the record?

Mr. ROBERTSON: Not that I can see.

Senator VIEN: Are these law officers, officers of the Department of Justice?

Mr. ROBERTSON: That is correct.

Senator VIEN: The former Deputy Minister, Mr. Varcoe, and his successor, Mr. Jackett?

Mr. ROBERTSON: Yes.

Senator VIEN: Mr. Chairman, I move that the law officers of the Department of Justice should be requested to appear at our next sitting, and that we now hear the technical advisers to the honourable Minister of Mines.

Hon. Mr. SPOONER: Mr. Forbes McFarland is the Mining Commissioner for the province of Ontario. He has been associated with the Department of Mines in our province for some 30 years.

Senator VIEN: To keep the record straight I would like my motion to be put.

Senator HAIG: Senator Vien can talk as much as he likes but I think we should hear all the witnesses and make whatever motions we want to make later. Making motions in the middle of a discussion doesn't mean anything. Let's hear all the witnesses and decide what we want to do next.

Senator VIEN: I accept this suggestion of the honourable Leader of the Government; my motion can stand until these witnesses are heard; but I will press my motion before we adjourn.

Senator MACDONALD: I would point out, Mr. Chairman, that we are not following the procedure suggested at the last meeting. The procedure suggested at the last meeting was that the law officers should be called and that the provincial authorities should be notified of the meeting in order that they could be here to hear the law officers of the Crown. Now, we are not following that procedure. The provincial authorities' representatives are here—one minister is here, and we are not following a procedure to ascertain what the case for the Dominion Government is. In that respect they are presenting their case before they know what our proposal is.

Hon. Mr. SPOONER: If I may be permitted, Mr. Chairman, I am rather in agreement with the honourable senator here, (Hon. Ross MacDonald, P.C.) and I think that all officers of your department should be here to suggest why

they need such legislation. You are dealing with something that is rather nebulous. We are trying to find out what is attempted to be done without knowing the reason behind it, and it places us in a rather unfortunate position, I suggest.

Senator McKEEN: You are right.

The CHAIRMAN: I was under the impression that the lawyers were supposed to be here.

Senator HAIG: Is not the truth of the situation this: Should we not ask the minister from whose department this bill comes, to come here and tell us why he or his officials want this bill, and then have the law office tell us why they put these provisions in? Now, provided the law officer tells us what he wants, and provided the law office puts it in the bill, then we will understand his position. It may be this legislation is not what he wanted, although I think it is likely it is; but supposing it is not, then once we find out what the minister wanted we can go ahead and see how the outside people think about that arrangement. The crux of the argument is that this bill is going to take land under the water and call it dominion lands; that is the crux of the argument, and I do not know how they can do that without the Nova Scotia case before us. I do not know how anyone can pass a law without them; in fact I do not know how it is possible because Nova Scotia gave the title to the coal under that 12 miles out.

Senator McKEEN: The same is true in British Columbia.

Senator HAIG: If there were technical matters to discuss, I could understand it. As a matter of fact, this is not a Government bill.

Senator MACDONALD: Oh, yes it is.

Senator HAIG: It is not a Government bill, it is a bill from one minister. It has not been a Government bill in my time. I do not recall being in the Cabinet when this bill was approved, I will say that candidly.

Senator MACDONALD: The bill was presented to the Senate by the Leader of the Senate as a Government bill; it is not a private bill.

Senator HAIG: Any minister can ask me to introduce a bill for him, and how can I refuse him? A Minister of the Crown asked me to do so.

Senator MACDONALD: I think the bill should go to the Cabinet for approval first before dealing with it here.

Senator HAIG: I think that is right.

Senator VIEN: Mr. Chairman, no bill is ever presented by a minister of the Crown before the cabinet has approved of it. The honourable Leader of the Government may not know whether this bill has been approved of or not, but it is the constant practice that no minister of the Crown presents a bill without the assent of the cabinet, and when the Leader of the Government in the Senate presents a departmental bill like this one, it necessarily becomes a Government bill.

Senator MACDONALD: May I add to that, from my recollection, when a bill is presented to the Senate as a Government bill, it bears the initials of the Prime Minister, and is sent to the Senate for presentation. I would be very much surprised if this bill has not been so initialled.

Senator VIEN: Mr. Chairman, could you request the Clerk of the Senate to produce the original of this bill?

Hon. Mr. SPOONER: Mr. Chairman, we seem to be moving a little fast here, and I have rather changed my mind.

Senator MACDONALD: The Senate always moves fast.

Hon. Mr. SPOONER: May I repeat, sir and honourable gentlemen, what I said a moment ago? I think we are placed in a rather unfortunate position by the fact that we are not aware of the reasoning behind this bill, and so we should be given the opportunity to hear the minister of the department sponsoring the bill, and also the law officers and other witnesses that may give evidence before the committee. We would be very happy to come here at your invitation and present our case, but we would not want to be placed in the reverse position, shall I say. Therefore, I am going to ask your indulgence, in that I be permitted to withhold the evidence of my advisors this morning.

Senator TURGEON: Mr. Chairman, may I make a statement concerning procedure? This is one of the most important measures that has come before the Senate for a long time; not only is it of basic importance in itself, but it is of the greatest interest to the Senate that it protect the constitutional rights of the provinces. Of course we must have regard for the constitutional rights of Canada, but we must not overlook the protection of the provinces.

The Minister of Mines for one of the provinces has officially stated that he would like to withhold his evidence and that of his advisors until he has heard or read the statements to be made by the officers of the Crown. Therefore, I would suggest that we proceed with the motion put forward by Senator Vien in order that we may hear the officers of the Crown at the earliest possible moment, and let the representatives of the provinces come before us at a later time.

Senator BOUFFARD: Why do you not put that in a form of a motion?

Senator TURGEON: I move that we proceed with the motion put forward by Senator Vien.

The CHAIRMAN: Do you agree?

Some SENATORS: Agreed.

Senator HAIG: Mr. Chairman, the members of the committee may pass that motion if they want to, but it does not solve the problem. I think we should pause until the bill comes before us to see whether it has been properly certified. Maybe I should not have introduced the bill at all—I don't know. I am trying to do what the law requires of me. But let me say candidly, I have never been the leader of a party in the house before, and I have only been at it for two months. I am not omnipotent—I make mistakes, and I make lots of them. If I have made a mistake, I will apologize to the committee, but I don't think I made a mistake. I was asked to introduce the bill; it was in my name, and put on my desk and I introduced it. I knew that the department wanted the bill put through, and I presumed they have the necessary consent. I do not know whether they did or not.

As I say, Mr. Chairman, you can put the motion if you like, but I do not think it is going to help us until we find out the true situation. I have asked for a delay while I investigate. If you do not choose to grant me that delay, I will have to withdraw the bill.

Senator MACDONALD: Surely, we can wait until the clerk returns with the original bill.

The CHAIRMAN: We asked the Minister of Northern Affairs and National Resources to come; the Deputy Minister has explained the situation, and I do not think the Minister could add anything to what has been said. I understand you now want to hear the law officers.

Senator VIEN: Mr. Robertson has stated that this bill was necessary for administrative purposes. We found in the bill something more than an administrative device. We now want to find out whether we are right or wrong in our construction of this bill. Mr. Robertson also stated that he could not give us a considered opinion on questions of law; that he spoke as advised by law

officers of the Crown. We did not want to press him further but we asked that the officers of the Crown be summoned. The honourable Leader of the Government suggests that we should hear the officers of the department. If he looks at the minutes of our last meeting, he will find that they contain the evidence of the Deputy Minister, who answered all questions except questions of law. To complete the presentation of the department, we now need answers to our questions of law, and we expected to receive them from the law officers this morning.

There has been some misunderstanding as to who should call the law officers. We appreciate that such misunderstandings do occur, occasionally, but I was told, last week, by an officer of the Crown, that the law officers of the Department of Justice were preparing a brief to be submitted here today. I am surprised that, after an interval of two weeks, they are not here.

Be that as it may, this bill has been introduced in the Senate as a Government bill, and it appeared to us that the Government in the right of Canada is attempting to take title to minerals and other resources under territorial waters and under the continental shelf.

Allow me to refer to the appendix to the House of Commons Hansard of the 28th of November, at page 1653. You will find there Provisional Comments on a Report on the "Law of the Sea." It is a memorandum that had been prepared by the former Minister of External Affairs, and it was submitted to the United Nations on behalf of Canada by the present Minister of External Affairs, the Honourable Sidney Smith, P.C., who obviously shares the opinion of his predecessor. This memorandum is to the effect that the "Law of the Sea" should be more clearly defined.

It is universally admitted that the continental territory of a coastal state extends offshore to three miles from the low water mark. Some nations contend that it should extend to 12 miles; others to 15 miles.

Minerals have been discovered under the waters of the Gulf of Mexico and off the shores of California far beyond the 12 mile belt. The United States Government claims the right to the minerals, not only under territorial waters, but also under what is called the continental shelf. The continental shelf was never clearly defined. Some have suggested that it should extend to a line where the depth of the water is 200 metres (approximately 600 feet); others say that this is too rigid and that it should extend as far as the coastal state can profitably exploit mines.

This is a matter of importance. In the memorandum to which I have referred it is suggested that mines and other natural resources like fisheries, for instance, in territorial waters and the continental shelf should belong to the coastal state. If that be so, when we come to a country like Canada, a Confederation, where natural resources are by virtue of our Constitutional Act, vested in provinces, it seems logical that the provinces are the coastal states and own all natural resources to be found in these offshore waters. Several provinces have assumed to possess that right. The provinces of British Columbia and Nova Scotia have granted concessions to exploit mines in territories—extending several miles off their shores. All provinces should have the same right to the full extent of the continental shelf.

There is here involved a principle that has never been properly discussed before a committee of Parliament nor has it been dealt with by legislation or considered at federal and provincial conferences. It is a matter of great consequence. We suggest that it be made the subject-matter of a serious study at conferences to be held between federal and provincial authorities.

Now it seems that it would advance matters in this committee, and it would enlighten all concerned, if the opinion of the law clerks of the Department of Justice were spread on our records. I, for one, and, I am sure, other

honourable members and provincial authorities would like to know what is the concept of the federal authorities as regards the boundaries of territorial lands vested in the Crown in the right of the provinces.

Apparently, according to Mr. Robertson as advised by the law clerks of the Crown, a province is bounded by the low water mark. I do not accept that theory as regards the property and control of natural resources to be found in, over or under territorial waters. We are anxious to see clearly defined and recognized the principle that the right of the provinces extends not only to the low water mark, but also to all natural resources in the soil and subsoil under territorial waters and under the continental shelf. It also extends to the exploitation and regulation of fisheries in these waters, including the power of regulating sanitary and other conditions affecting the interests of the coastal state.

That is the opinion we submit to this committee; it is a proper construction of the letter and spirit of Confederation; our Confederation Act provides that natural resources are vested in the provinces. We believe that it would be a violation of the spirit of our Confederation Act to withdraw from the provinces any part of those natural resources. Of course, in the Northwest Territories and in the Yukon, which are still vested in the Crown in the right of Canada, offshore mining rights are obviously the property of the Government of Canada. With respect to any other territorial waters the spirit and letter of Confederation should receive the broadest possible construction. The Senate has a particular duty; it is one of its main functions to protect provincial rights in that respect.

Senator BOUFFARD: We have before us a very important matter, and we are very pleased that the provinces have taken an interest in it, and we are glad to see that the Minister of Mines for Ontario is here. It is too bad that the law officers are not here to give the explanations that should have been given this morning. I hate to think that the Minister of Mines and his two officers are going to have to come back to hear the law officers, and I would suggest that, if possible, we adjourn the committee until tonight at 5 o'clock, and arrange for the law officers to be here, so that the Minister of Mines for Ontario and his two officers could hear them, and maybe we could hear the Minister of Mines and his two advisers after the law officers have been heard. It seems to me it would not be difficult to have the Deputy Minister of Justice attend here tonight at 5 o'clock—he has had two weeks to study the matter—so that we can hear him, and the Minister of Mines for Ontario and his two officers could stay here until this afternoon to hear the officer of the Justice Department.

Senator HAWKINS: Some of us have commitments tonight, and I suggest it is hardly fair that we should be advised at this time that there will be a meeting of this important committee at 5 o'clock.

Senator BOUFFARD: I am willing to change my suggestion to make the meeting tomorrow.

Senator KINLEY: What is the hurry? This matter does not seem to be one of urgency. The sponsor is not even here. Why not leave the matter over for a while?

Senator HAIG: I like the suggestion of the two senators from the Province of Quebec. Unless absolutely necessary, we do not want to force people to come here at 5 o'clock. I should like to see a full meeting, because this is a very important matter. If we can meet at 5 o'clock we should ask representatives of the Department of Northern Affairs and National Resources, from which department the Bill comes, to attend, and learn from the Deputy Minister of the Department of Justice, who drew the bill, what his instructions were, and thus let us find out what the Bill does and what their opinion of it is. That is the first thing we should do.

Senator MACDONALD: I would like to know whether it is a Government bill.

Mr. HOPKINS: In the chain of procedure I forgot one thing, and that is that when a Government bill is approved it is signed by the Prime Minister, sent to the House of Commons, and referred by the Clerk to me, and it is printed through the aegis of my office, and the original signed copy is filed in my office with the complete file with reference to the Bill. I have the signed copy here. Under the *ancien régime* they used to be initialled "L. St. L.". Now I see the signature is in full, "John Diefenbaker".

Senator MACDONALD: There is no doubt it is a Government bill.

Senator HAIG: I don't know that. It must have been before my time. Whether it is a Government bill or not, I am not worried about that, but let us have the meeting at 5 o'clock. If someone will move a motion to that effect I will support it. We should have present the Minister of Northern Affairs and National Resources and the Law Officer of the Crown who drew the bill, and ascertain what were his instructions. Do we want anybody else? I think that will take the whole time up to 6 o'clock. Under these circumstances I would agree that we adjourn.

Senator HAWKINS: I strongly object to having that meeting tonight. A group of us are having another meeting which we are committed to attend. This is an important bill. We were called to meet today, but through somebody's negligence we have not the proper witnesses here. It is not our fault that we are here. I am anxious to have the bill dealt with, but I object to a meeting at 5 o'clock tonight.

Senator VIEN: What about tomorrow morning?

Hon. Mr. SPOONER: May I ask the indulgence of the committee? I regret very much that it will be impossible for us to be here tomorrow morning. I have commitments in Toronto tomorrow morning that I must attend to. I cannot agree with statements that have been made before that there seems to be a great hurry about this bill. I would like to, and I had planned to have with us this morning, Mr. Eric Silk, who is the senior legislative counsel for our province, but unfortunately he had a meeting in Washington and could not attend here. I would like to suggest that the meeting be adjourned until the new year. We shall be very happy to come back then, and I think at that time we shall be able to have Mr. Silk with us, and we shall be in a much better position, after we hear the evidence of the law officers and other persons, to discuss this bill than we would be in an hour this evening, or upon some short notice of that kind.

Senator VIEN: Mr. Minister, would it not be helpful to you and to us that the law officers be heard? The record of our proceedings is to be printed; a printed copy of our report, containing the opinion of the law officers would be available to all. We can sit either tonight, at five, or tomorrow at ten, and then adjourn sine die to be reconvened at the call of the Chair.

Hon. Mr. SPOONER: If we can be assured of that, that would be quite satisfactory to us. We would then have the record of the law officers' statement: We could have it analysed and have an opportunity to return to another meeting of your committee and present our case.

Senator McKEEN: I should like to support this procedure, because I want to have the opinion of the law officers of the Crown so that the British Columbia Government will know what the situation is, rather than have a meeting called and take action on it at that meeting immediately after the law officers have given their views. I think that the reason for this bill should be clearly defined. British Columbia was not given the lands, like Manitoba, Saskatchewan, Alberta, and the Northwest Territories. Our province was a Crown colony. The lands were never vested in Canada, they were vested in the

Crown colony there. When we came into the Act of Union we had those rights, and we would have them today just the same as Upper and Lower Canada and the Maritimes. I think the principle of this thing goes very, very deep and it is one we should go very carefully on. I strongly support the motion that we have the law officers of the Crown give us their interpretation of the act.

Senator HAIG: I have a suggestion to make. I think we should hear the law officers tomorrow or the next day, if we can. We should record verbatim what they say and send out a report of their evidence to all the Attorneys-General of Canada, telling them of our discussions. We are going to come back early in January, and by that time they will have had a good opportunity to give us their views on the matter. I do not believe they appreciate the importance of this legislation. I think the chairman should write the letter himself the next time, and point out that it is very important that we get an answer from them as to the stand they take.

Senator MACDONALD: I think in view of what has been said today that we should have the minister from the department concerned appear before the committee. This is an important bill, and I am sure the minister would like to give his reasons here for bringing in this legislation. After he has given his explanation we would hear the law officers with respect to our position. If the minister could come tomorrow I would be in accord with the suggestion of the honourable Leader of the Government.

Mr. ROBERTSON: My information is that the minister, unfortunately, has to be in western Canada tomorrow and Friday.

Senator HAIG: What about next week?

Mr. ROBERTSON: As far as I am aware the minister will be in town next week.

Senator HAIG: I agree with the Leader of the Opposition, that the minister should come and I would therefore move that the committee ask the Minister of Northern Affairs and Natural Resources, and the Deputy Minister of Justice, or whoever drew the bill, to be here next Wednesday morning at 10 o'clock.

Senator MACDONALD: The understanding is that we will take no definite action with respect to the legislation until the provinces have had an opportunity to read the evidence and the proceedings which take place next week.

Senator HAIG: Yes.

Hon. Mr. SPOONER: That will be satisfactory to us.

The committee adjourned until Wednesday, December 18, at 10 a.m.



